UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,527	02/22/2002	Daniel Scott Venolia	04860.P0539C3	8352

7590   03/12/2003

James C. Scheller, Jr.
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard, Seventh Floor
Los Angeles, CA 90025-1026

EXAMINER
BRIER, JEFFERY A

ART UNIT	PAPER NUMBER
2672	

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>07 October 2002</u> .

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-16,18,19 and 21-82</u> is/are pending in the application.   *JB 3/3/03*
    4a) Of the above claim(s) ~~55-60, 66-71 and 77-82~~ *50-54, 61-65, and 72-76* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-16,18,19,21-49,55-60,66-71 and 77-82</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>07 October 2002</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____ .

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a)☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)   4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5)☐ Notice of Informal Patent Application (PTO-152)

3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .   6)☐ Other: .

Response to Amendment

1.   The amendment filed on 10/07/02 has been entered. Claims 17 and 20 have been cancelled. Claims 1, 3, 4, 6, 7, 9-16, 18, 19, 21, 22, 24 and 25 have been amended by this amendment. Claims 26-82 have been added by this amendment.

Drawings

2.   The corrected or substitute formal drawings were received on 10/07/02. These formal drawings are approved.

Response to Arguments

3.   Applicant's arguments concerning the obvious type double patenting rejection filed 10/07/02, page 26 of the response, have been considered but they are not deemed to be persuasive. Applicant argues that the amended claims distinguish from the patented claims because the amended claims claim the limitation of simultaneous control of two parameters which are under control of two different elements of a graphical user interface which applicant alleges is not obvious in view of claims 1-10 of U.S. Patent No. 6,601,062 and over claims 1-5 of U.S. Patent No. 6,366,303. Applicant has failed to appreciate certain claimed limitations that bring into the claim the graphical user interface of the Patent's specification. Claim 1 line 6 claims "a location on a display screen" which corresponds according to the specification to a location on the displayed graphical user interface. Thus, when the patent's claims are read in light of

the specification to determine the meaning of the patented claims applicants arguments

become non-persuasive.

Election/Restrictions

4.   Newly submitted claims 50-54, 61-65 and 72-76 are directed to an invention that

is independent or distinct from the invention originally claimed for the following reasons:

Claims 50 and 61 claim a method to control a graphical user interface based

upon whether a cursor is located outside a first region or is located within the first

region. Claim 72 claims a system having the same functions as claims 50 and 61.

Inventions of this type are classified in class 345 subclass 862. This invention is a

combination type of claim while the originally examined claims are a subcombination

type of claim usable in the combination since the originally examined claims only deal

with the cursor being located within a region, applicant's specification at page 10 line 23

to page 13 line 11, over certain graphical user interface elements and since the

originally examined claims are concerned with a method for accessing a broad data

field having fine resolution while these claims claim a method to control a graphical user

interface. A method to control a graphical user interface is different than a method for

accessing a broad data field having fine resolution. Thus, newly presented claims 50-

54, 61-65 and 72-76 are directed to an invention that is independent or distinct from the

invention originally claimed.

Since applicant has received an action on the merits for the originally presented

invention, this invention has been constructively elected by original presentation for

prosecution on the merits. Accordingly, claims 50-54, 61-65 and 72-76 are withdrawn

from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b)

and MPEP § 821.03.

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 55-60, 66-71 and 77-82 are rejected under 35 U.S.C. 112, first

paragraph, as containing subject matter which was not described in the specification in

such a way as to reasonably convey to one skilled in the relevant art that the

inventor(s), at the time the application was filed, had possession of the claimed

invention.   Claims 55, 66 and 77 claim a method to control a graphical user interface,

the method comprising:... ...adjusting a first parameter under control of a first user

interface element of the graphical user interface... ...adjusting a second parameter

under control of a second user interface element of the graphical user interface

according to the second component... (claim 77 is a system claim that claims the same

function as claims 55 and 66). The claimed term "parameter" is a broad term whose

scope was not conveyed by the specification.

Double Patenting

6.   The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7.   Claims 1-16, 18, 19, 21-49, 55-60, 66-71, and 77-82 are rejected under the

judicially created doctrine of obviousness-type double patenting as being unpatentable

over claims 1-10 of U.S. Patent No. 6,061,062. Although the conflicting claims are not

identical, they are not patentably distinct from each other because the pending claims

are broader than the patented claims.

An analysis of the pending claims and the patented claims follows.

Pending claim 1	Patented claim 8 of 6,061,062
1. A method for accessing a broad data field having fine resolution comprising:	8. A method of implementing a single input device for controlling movement of a cursor displayed on a computer and for controlling access of a particular piece of data within a data field displayed by a computer system, said method comprising the steps of:

	positioning a moveable cursor to a location on a display screen (this corresponds with reference to the specification to the location on the displayed graphical user interface) in response to movement of said input device when a signal supplied by said input device is in a first state;
	when said signal is in a second state:
	remapping control of said input device, wherein movement of said input device controls both a resolution and a range of said data field for display on said display screen rather than positioning said moveable cursor;
selecting a first scale from a variable scale for controlling a magnification for accessing data within the data field, the scale being under control of a first control element of a graphical user interface;	selectively varying said resolution at which said data field is displayed responsive to movement of said input device in a first axis, wherein continuous movement of said input device in said first axis continuously changes said resolution;
moving the range to encompass different portions of the data field, a position of the range relative to the data field being under control of a second control element of the graphical user interface; and	controlling said range of the data field for display in response to movement of said cursor positioning device in a second axis, wherein continuous movement in the second axis continually causes different ranges of the data field to be displayed;
changing simultaneously the scale while moving the range over different portions of the data field.	moving said cursor positioning device in the first and second axes to simultaneously vary said resolution and said range of display, until the particular piece of data is accessed.

Claims 2-10 correspond to patented claim 8 since they add to pending claim 1 much of the limitations found in patented claim 8.

Claim 11 corresponds to patented claim 9.

Pending claim 12	Patented claim 8 of 6,061,062
12. A method for accessing a particular piece of data within a broad data field having fine resolution comprising:	8. A method of implementing a single input device for controlling movement of a cursor displayed on a computer and for controlling access of a particular piece of data within a data field displayed by a computer system, said method comprising the steps of:
	positioning a moveable cursor to a location on a display screen (this corresponds with reference to the specification to the location on the displayed graphical user interface) in response to movement of said input device when a signal supplied by said input device is in a first state;
	when said signal is in a second state:
	remapping control of said input device, wherein movement of said input device controls both a resolution and a range of said data field for display on said display screen rather than positioning said moveable cursor;
selectively varying a scale, thereby determining a range, the range spanning a portion of the data field, the scale being under control of a first control element of a graphical user interface;	selectively varying said resolution at which said data field is displayed responsive to movement of said input device in a first axis, wherein continuous movement of said input device in said first axis continuously changes said resolution;
moving the range relative to the data field, thereby encompassing portions of the data field such that the particular piece of data lies within the range, a position of the range relative to the data field being under control of a second control element of the graphical user interface;	controlling said range of the data field for display in response to movement of said cursor positioning device in a second axis, wherein continuous movement in the second axis continually causes different ranges of the data field to be displayed;
locating a point close to the location of the particular piece of data within the data field using the second control element;	
decreasing the scale, thereby increasing the range's resolution, while simultaneously moving the range relative to the data field to keep the point within the range; and	

successively repeating said decreasing and said locating, until the particular piece of data is actually accessed.	moving said cursor positioning device in the first and second axes to simultaneously vary said resolution and said range of display, until the particular piece of data is accessed.

Claims 13-14 correspond to patented claim 1 since they add to pending claim 12 much of the limitations found in patented claim 1.

Claim 15 corresponds to patented claim 10.

Pending claim 16	Patented claim 1 of 6,061,062
16. An apparatus for accessing a broad data field having fine resolution comprising:	1. In a computer system, a method for accessing a data field comprising the steps of;
	positioning a moveable cursor to locations on a display screen (this corresponds with reference to the specification to the location on the displayed graphical user interface) in response to movement of a cursor positioning device;
	remapping control of said cursor positioning device from controlling a position of said moveable cursor to controlling both a scale and a segment of said data field for display on said display screen, wherein said cursor positioning device performs a dual function of controlling movement of said cursor and controlling said scale and said segment, depending on a signal indicated by a switch;

	when control of said cursor positioning device is remapped:
a means for selecting a scale for controlling a range within the data field, the scale being under control of a first control element of a graphical user interface;	increasing said scale at which the data field is displayed according to movement of said cursor positioning device in a first direction of a first axis, wherein sustained movement of said cursor positioning device in said first direction of said first axis continuously increases said scale at which said segment of said data field is displayed; decreasing the scale at which said data field is displayed according to movement of said cursor positioning device in a second direction in the first axis, wherein continuous movement of said cursor positioning device in said second direction of said first axis continuously decreases said scale at which said segment of said data field is displayed;
a means for moving the range to encompass different portions of the data field, a position of the range relative to the data field being under control of a second control element of the graphical user interface; and	controlling which segment of the data field is displayed according to movement of said cursor positioning device in a second axis,
a means for simultaneously selecting the scale while moving the range over different portions of the data field.	wherein continued movement of said cursor positioning device relative to said second axis causes successive segments of said data field to be displayed at the scale which is selected by movement of said cursor positioning device in said first axis.

Claims 17-20 correspond to patented claim 1 since they add to pending claim 12 much of the limitations found in patented claim 1.

Claim 21 corresponds to patented claim 5.

Pending claim 22	Patented claim 8 of 6,061,062
22. A method for accessing a data set containing a plurality of items comprising:	8. A method of implementing a single input device for controlling movement of a cursor displayed on a computer and for controlling access of a particular piece of data within a data field displayed by a computer system, said method comprising the steps of:
	positioning a moveable cursor to a location on a display screen (this corresponds with reference to the specification to the location on the displayed graphical user interface) in response to movement of said input device when a signal supplied by said input device is in a first state;
	when said signal is in a second state:
	remapping control of said input device, wherein movement of said input device controls both a resolution and a range of said data field for display on said display screen rather than positioning said moveable cursor;
	selectively varying said resolution at which said data field is displayed responsive to movement of said input device in a first axis, wherein continuous movement of said input device in said first axis continuously changes said resolution;
	controlling said range of the data field for display in response to movement of said cursor positioning device in a second axis, wherein continuous movement in the second axis continually causes different ranges of the data field to be displayed;
selecting a scale of access to the data set according to input from an input device with relation to a first axis of a first degree of freedom of the input device, the scale being under control of a first control	moving said cursor positioning device in the first and second axes to simultaneously vary said resolution and said range of display, until the particular piece of data is

element of a graphical user interface; and selecting a position of access to the data set at the scale according to input from the input device with relation to a second axis of a second degree of freedom of the input device while the first degree of freedom of the input device controls said selecting the scale in the first graphical user interface element, the position being under control of a second control element of the graphical user interface.	accessed.

Claim 23 corresponds to patented claim 10.

Claim 24 corresponds to patented claim 8 since it adds to pending claim 22 a

limitation found in patented claim 8.

Pending claim 25	Patented claim 8 of 6,061,062
25. A method for accessing a particular piece of data within a broad data field having fine resolution comprising:	8. A method of implementing a single input device for controlling movement of a cursor displayed on a computer and for controlling access of a particular piece of data within a data field displayed by a computer system, said method comprising the steps of:
	positioning a moveable cursor to a location on a display screen (this corresponds with reference to the specification to the location on the displayed graphical user interface) in response to movement of said input device when a signal supplied by said input device is in a first state;
	when said signal is in a second state:
	remapping control of said input device, wherein movement of said input device controls both a resolution and a range of said data field for display on said display screen rather than positioning said moveable cursor;

	selectively varying said resolution at which said data field is displayed responsive to movement of said input device in a first axis, wherein continuous movement of said input device in said first axis continuously changes said resolution;
	controlling said range of the data field for display in response to movement of said cursor positioning device in a second axis, wherein continuous movement in the second axis continually causes different ranges of the data field to be displayed;
selecting a scale wherein the particular piece of data lies within a range which encompasses a continuous portion of the data set, the scale depicting a magnification level of the data field, the scale being controlled by a first degree of freedom of an input device in a first control element of a graphical user interface; decreasing the scale such that the magnification level is increased; changing a span of the data field covered by the range, according to the scale selected; moving the data field such that the particular piece of data falls within the range, said moving controlled by a second degree of freedom of the input device in a second control element of the graphical user interface while the first degree of freedom of, the input device controls the first control element; and successively repeating said decreasing the scale and said moving the data field, until the particular piece of data is actually accessed.	moving said cursor positioning device in the first and second axes to simultaneously vary said resolution and said range of display, until the particular piece of data is accessed.

Newly added claims 26-46 are similar in scope to claims 1-16, 18-21 and 25 with

the exception they do not claim the graphical user interface, however,   they do claim

the patented positioning a moveable cursor to a location on a display screen and the patented second state.

Newly added claims 55-60, 66-71, and 77-82 are similar to claims 1-16, 18-21 and 25 with the exception they broadly claim controlling a parameter rather than scale and range.

From the above comparisons it is clear that the pending claims are broader versions of the patented claims. Broader versions of patented claims are an obvious way for applicant to claim the same thing patented. *In re Vogel*, 422 F.2d 438, 164 USPQ 619, 623 (CCPA 1970). Vogel stated on page 623 "*The answer to the second analysis question, therefore, is yes, and the claim is not allowable in the absence of a terminal disclaimer. The correctness of this conclusion is demonstrated by observing that claim 10, by reciting "meat," includes pork. It is further noted that viewing the inventions in reverse order, i.e. as though the broader claims issued first, does not reveal that the narrower (pork) process is in any way unobvious over the broader (meat) invention disclosed and claimed in the instant application.*". Thus, this application's broader claims are not unobvious over the above identified patented claims.

8.   Claims 1-16, 18, 19, 21-49, 55-60, 66-71, and 77-82 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6,366,303. Although the conflicting claims are not identical, they are not patentably distinct from each other because the pending claims are broader than the patented claims. By comparing the pending claims with the

patented claims it is clear that the pending claims are broader versions of the patented

claims.   Broader versions of patented claims are an obvious way for applicant to claim

the same thing patented. *In re Vogel*, 422 F.2d 438, 164 USPQ 619, 623 (CCPA 1970).

Vogel stated on page 623 "*The answer to the second analysis question, therefore, is*

yes, and the claim is not allowable in the absence of a terminal disclaimer. The

correctness of this conclusion is demonstrated by observing that claim 10, by reciting

"meat," includes pork. It is further noted that viewing the inventions in reverse order, i.e.

as though the broader claims issued first, does not reveal that the narrower (pork)

process is in any way unobvious over the broader (meat) invention disclosed and

claimed in the instant application.". Thus, this application's broader claims are not

unobvious over the above identified patented claims.

Allowable Subject Matter

9.   Claims 1-16, 18, 19, and 21-49 would be allowable if a proper terminal

disclaimer is filed to overcome the rejection(s) under the judicially created doctrine of

obviousness-type double patenting.

10.   Claims 1-16, 18, 19, and 21-49 are allowable over the prior art of record for the

reasons of record given by applicant concerning the lack of a graphical user interface in

the Matthews reference.

11.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

12.   Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Jeffery A. Brier whose telephone number is (703)

305-4723. The examiner can normally be reached on M-F from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Michael Razavi, can be reached at (703) 305-4713).

Any response to this action should be mailed to:

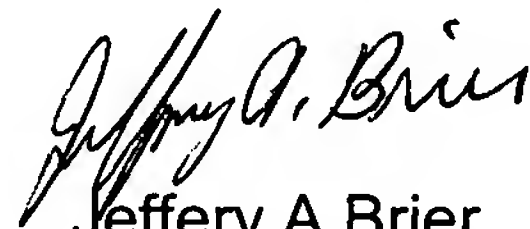Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Jeffery A Brier
Primary Examiner
Art Unit 2672